

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2016

Coram :

THE HON'BLE MR.JUSTICE V.RAMASUBRAMANIAN

Writ Petition No.30253 of 2013

1. S.Vembuli
 2. K.Mohan
 3. S.Illavarasan
 4. R.Selvamani
 5. M.Kaaja @ Kaaja Moinuthin
 6. J.Kamalakannan
 7. G.Kalaiselvan
 8. S.Raja
- ... Petitioners

Vs.

1. The State of Tamil Nadu
rep. by its Secretary
Labour and Employment Department
Chennai 9.
2. The Commissioner of Labour
Chennai 6.
3. The Assistant Labour Commissioner (Conciliation)
Kuralagam, Chennai 108.
4. The Chairman
Tamil Nadu Generation and Distribution Corporation Ltd.
No.144, Anna Salai
Chennai 600 002.
5. The Chief Engineer (Personnel)
Tamil Nadu Generation and Distribution Corporation Ltd.
No.144, Anna Salai
Chennai 600 002.
6. The Chief Engineer
North Chennai Thermal Power Station
Chennai 600 120.
7. The Superintending Engineer (P&A)
North Chennai Thermal Power Station
Chennai 600 120.

8. The Superintending Engineer (Mechanical II)
North Chennai Thermal Power Station
Chennai 600 120.

9. M/s. Radha Engineering Works
rep. by its Proprietor Venkatesan
No.40, Sapthagiri Salai
Jaffarkhanpet, Chennai 600 083.

.. Respondents

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the entire records connected with the impugned order of declining to refer the dispute for adjudication vide G.O.Ms.(D) No.436, Labour and Employment (A1) Department dated 26.9.2012, passed by the 1st respondent and quash the same and direct the 1st respondent to refer the dispute for adjudication on the basis of failure report submitted by the 3rd respondent in letter No.Pa.2/46519/11 dated 18.5.2012.

For Petitioners : Mr.S.N.Ravichandran
For Respondents 1 to 3 : Mrs.P.Rajalakshmi, G.A.
For Respondents 4 to 8 : Mrs.R.Varalakshmi

O R D E R

This writ petition arises out of the refusal of the Government to refer an industrial dispute for adjudication.

2. Heard Mr.S.N.Ravichandran, learned counsel for the petitioners, Mrs.P.Rajalakshmi, learned Government Advocate for respondents 1 to 3 and Mrs.R.Varalakshmi, learned counsel for respondents 4 to 8.

3. The petitioners joined together and raised a dispute claiming permanency. But, by G.O.(D)No.436 dated 26.9.2012, the Government refused to refer the dispute for adjudication on the ground that the petitioners have already been stopped from being engaged and that therefore, they can independently raise a dispute under Section 2-A. According to the Government, the petitioners are not entitled to seek a reference of a dispute with regard to regularisation, unless and until they get back to service.

4. Prima facie, the above view of the Government is correct. It is only a person who is in service, is entitled to raise a dispute through the Union, regarding regularisation. A person who is not employed cannot seek regularisation of the

disputes of other persons under G.O.(D)No.815, Labour and Employment dated 24.11.2006. The dispute referred under the said Government Order for adjudication was as follows:

"Whether the claim of M/s. S.Sivaraman and P.Ravi for taking them back to service and for regularisation in the Ennore Thermal Power Plant is justified or not?"

5. When the very same dispute in respect of others have been referred for adjudication without the argument stated in the preceding paragraph being raised against them, it is not fair to deprive the petitioners of the same benefit. Therefore, the writ petition is allowed and the order of the Government is set aside, with a direction to the Government to refer the dispute, as referred to in the case of S.Sivaraman and others, within a period of two months from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

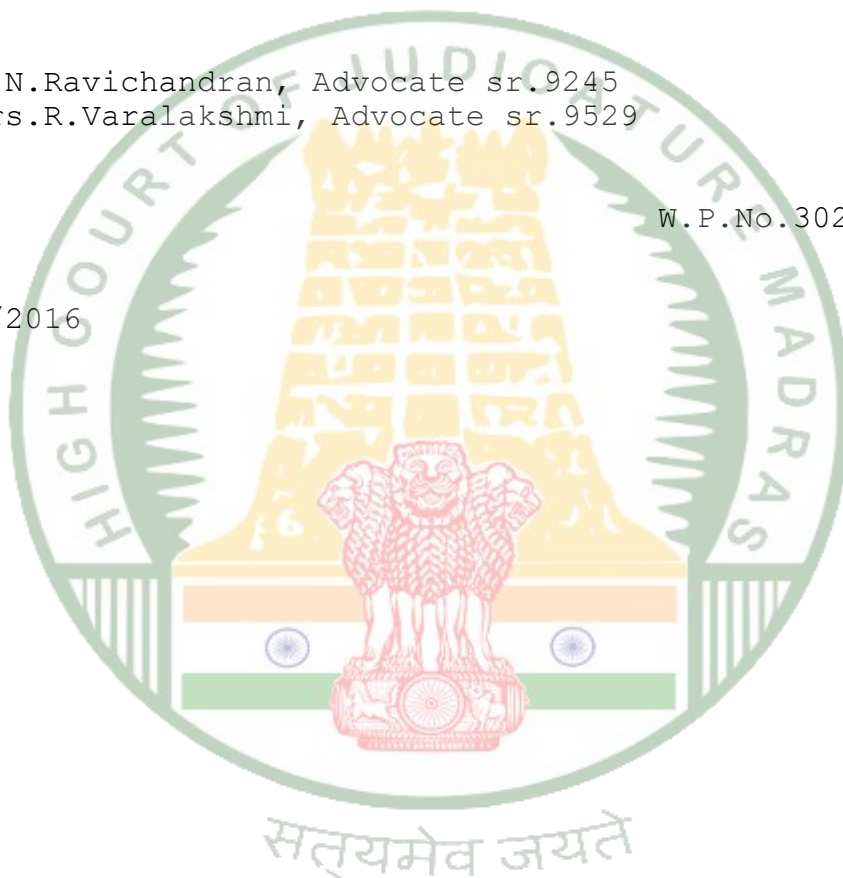
1. The Secretary to Government,
Labour and Employment Department,
Chennai 9.
2. The Commissioner of Labour,
Chennai 6.
3. The Assistant Labour Commissioner (Conciliation)
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8. The Superintending Engineer (Mechanical II)
North Chennai Thermal Power Station,
Chennai 600 120.

+1cc Mr.S.N.Ravichandran, Advocate sr.9245
+1cc to Mrs.R.Varalakshmi, Advocate sr.9529

W.P.No.30253 of 2013.

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srg 15/03/2016



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